
**VILLAGE OF WESTMONT
WESTMONT PERSONNEL HANDBOOK**

POLICY PP.15. FAMILY MEDICAL LEAVE ACT POLICY AND PROCEDURE

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PURPOSE

The Family and Medical Leave Act of 1993 (FMLA) permits eligible employees to take up to twelve (12) work-weeks of unpaid leave of absence during any rolling twelve (12) month period for certain family or medical reasons or twenty-six (26) workweeks during a single twelve (12) month period under the Servicemember Family Leave provision. The FMLA provides job protection to eligible employees during the period of entitled absence and the employee's insurance coverage will remain the same as if the employee remained actively employed.

ELIGIBILITY

Employees are entitled to leave under the FMLA after they have been employed by the Village of Westmont (the "Village") for at least one (1) year (with no break in service of seven (7) or more years [except if related to USERRA covered military obligations and/or as otherwise provided in a collective bargaining agreement or written agreement, if applicable]) and have worked at least 1,250 hours during the previous year period. Eligible employees may qualify for up to twelve (12) workweeks or twenty-six (26) workweeks of unpaid leave during a rolling twelve (12) month period measured backward-forward from the date the employee's ~~requested-first~~ FMLA leave commences or is designated. Part-time employees who work at least 1,250 hours in a twelve (12) month period are eligible to use FMLA leave, subject to remaining provisions of this Policy.

FMLA leave may be taken or designated for any of the following reasons:

- For the birth and care of the newborn child of an employee (within 12 months of the birth of the child);
- For placement with the employee of a son or daughter for adoption or foster care (within 12 months of the placement of the child);
- To care for a covered parent, child or spouse of the employee with a "serious health condition"; or

- To take medical leave when the employee is unable to perform the essential functions of his/her job because of the employee's own "serious health condition."
- Because of any "qualifying exigency" (as defined by the Secretary of Labor) arising out of the fact that your spouse, child, or parent is deployed on active duty in a foreign country (or has been notified of an impending call or order to active duty) in the Armed Forces.

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SERIOUS HEALTH CONDITION

A "serious health condition" means any illness, injury, impairment or physical or mental condition that involves one of the following:

1. **Hospital Care.** Inpatient care (i.e., an overnight stay) in a hospital, hospice or residential medical care facility, including any period of incapacity or subsequent treatment in connection with or consequent to such inpatient care.
2. **Absence Plus Treatment.** A period of incapacity of **more** than three consecutive ~~calendar work~~ days (including any subsequent treatment or period of incapacity relating to the same condition), that also involves either: a) **treatment two or more times** (within 30 days and provided the first visit takes place within seven (7) days of the first day of incapacity) by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or b) **treatment** by a health care provider **on at least one occasion** which results in a **regimen of continuing treatment** under the supervision of the health care provider (first visit to health care provider must take place within seven (7) days of the first day of incapacity.
3. **Pregnancy.** Any period of incapacity due to pregnancy, or for prenatal care.
4. **Chronic Conditions Requiring Treatment.** A chronic condition which: a) requires **periodic visits** for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider; b) continues over an extended period of time; **and** c) may cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).
5. **Permanent/Long-term Conditions Requiring Supervision.** A period of incapacity which is **permanent or long term** due to a condition for which treatment may be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.
6. **Multiple Treatments (non-chronic conditions).** Any period of absence to receive **multiple treatment** (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for **restorative surgery** after an

accident or other injury, or for a condition that **would likely result in a period of incapacity of more** than three consecutive ~~calendar~~-work days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), and kidney disease (dialysis).

QUALIFYING EXIGENCY LEAVE

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Qualifying Exigency Leave. If you are an eligible employee (as defined above), you are entitled to take up to twelve (12) weeks of unpaid FMLA leave for any qualifying exigency arising out of the fact that a covered military member is on active duty or called to active duty status. The leave described in this paragraph is available during a 12-month rolling period, and may be taken on an intermittent or reduced leave schedule basis. You will be required to provide a copy of the covered military member's active duty orders or other documentation issued by the military that indicates that the military member is on active duty or is called to active duty status in a foreign country and the dates of the covered military member's active duty service. Eligible employees may take all twelve (12) weeks of his/her FMLA leave entitlement as qualifying exigency leave or the employee may take a combination of twelve (12) weeks of leave for both qualifying exigency leave and leave for a serious health condition (as defined above).

With respect to a Qualifying Exigency Leave:

- a. A "covered military member" means your spouse, son, daughter, or parent who is on active duty or called to active duty status in any foreign country in any of the Armed Forces, including a member of the National Guard or Reserves.
- b. A "qualifying exigency" includes the following broad categories: (a) short notice deployment; (b) military events and related activities; (c) childcare and school activities; (d) financial and legal arrangements; (e) counseling; (f) rest and recuperation; (g) post deployment activities, including reintegration activities, for a period of 90 days following the termination of active duty status; and, (h) additional categories that are agreed to by the employer and employee within this phrase.
- c. The phrase "son or daughter" is defined as your biological, adopted, or foster child, stepchild, legal ward, or child for whom you stood in loco parentis, of any age for qualifying exigency leave, who is on active duty or called to active duty status who is of any age. (Note: This definition is different from other sections of this FMLA policy).
- d. A "parent" means a biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to you when you were a son or daughter but it does not included "parents in law

MILITARY CAREGIVER LEAVE

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Military Caregiver Leave. If you have been employed by the Company for at least twelve (12) months and have worked at least 1,250 hours during the 12-month period preceding the start of the leave, and you work at or report to a work site which has fifty (50) or more Company employees within a 75-mile radius of that work site, and you are a spouse, child (of any age for military caregiver leave), parent or next of kin of a Covered Servicemember, as defined below, you are entitled to a total of twenty-six (26) workweeks of unpaid leave during a single 12-month period to care for the Covered Servicemember (including twelve (12) workweeks for any other FMLA qualifying reason). The leave described in this paragraph shall only be available during a single 12-month period beginning as of the date the leave commences and ending 12 months after that date (and any unused amounts are forfeited).

Military Caregiver Leave may be permitted more than once if necessary to care for a different Covered Servicemember (or the same Servicemember with multiple or subsequent injuries or illnesses) up to a combined total of twenty six (26) workweeks in a twelve (12) month period. However, your total available leave time in any single 12-month period generally may not exceed a combined total of twenty-six (26) workweeks (including FMLA time off taken for any other reason); except as provided under the FMLA regulations. You will be required to timely submit the completed paperwork provided to you and available from our Human Resources Department as a condition of receiving approved Military Caregiver Leave; except as provided under the FMLA regulations. NOTE: the 12 month computation period for this type of leave differs from the other types of FMLA leave.

With respect to Military Caregiver FMLA Leave:

- a. A “Covered Servicemember” means a member of the Armed Forces, including a member of the National Guard or Reserves, who (i) is undergoing medical treatment, recuperation, or therapy, (ii) is otherwise in outpatient status, or (iii) is otherwise on the temporary disability retired list, for a serious injury or illness; or is a veteran (discharged for other than “dishonorable” reasons) who was on active duty at some point in the five (5) year period prior to the date when the medical treatment, recuperation or therapy for a serious injury or illness that necessitates the Caregiver’s leave).
- b. “Outpatient status” means the status of a member of the Armed Forces assigned to a military medical treatment facility as an outpatient or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.
- c. “Next of kin” means the nearest blood relative of that individual (regardless of age) other than an employee’s spouse, son or

daughter. You are required to provide confirmation of the relationship upon request. The Servicemember may designate the blood relative who is considered his/her next of kin; otherwise, the following order generally will apply: blood relatives granted custody by law, brother/sister, grandparents, aunts/uncles, and then first cousins.

- d. “Serious injury or illness” means an injury or illness incurred by the Servicemember in the line of duty on active duty in the Armed Forces (or existed before the beginning of the Servicemember’s active duty and was aggravated by service in the line of duty) that (i) may render the Servicemember medically unfit to perform the duties of the member’s office, grade, rank or rating, or (ii) in the case of a veteran Servicemember, that manifests itself before or after the member became a veteran.

PAID OR UNPAID FMLA LEAVE

The FMLA provides for up to twelve (12) workweeks of unpaid leave in a twelve (12) month period for qualifying reasons or twenty-six (26) workweeks during a single twelve (12) month period for qualifying reasons under the Servicemember Family Leave provision. The FMLA also permits employers to require employees to use available paid leave for the time on FMLA leave. The Village will require employees to use paid leave (including sick leave, vacation time and floating holidays, where applicable) for otherwise unpaid FMLA leave. When such paid leave is exhausted, employees may request in writing to use available compensatory time. Use of employee compensatory time is at the employee’s discretion and is not required by the FMLA or the Village of Westmont.

Employees using all available paid and personal leave before the end of a scheduled FMLA leave will be in an unpaid status for the remainder of the leave, unless the employee qualifies for some other form of payment or benefit. The combined total of paid and unpaid FMLA leave shall not exceed twelve (12) weeks. As indicated below, if you need an extension due to a disability/handicap or any other form of a reasonable accommodation, you are encouraged to review this with management before the expiration of the FMLA leave when foreseeable.

REQUESTS FOR FMLA LEAVE NOTIFICATION REQUIREMENTS

Village employees need not request FMLA leave when notifying the Village of an absence that is eligible for FMLA leave. Employees must only provide enough information so that the supervisor understands that the absence or other time away requested may be for one or more qualifying reasons under the FMLA, as stated in the *Eligibility* section, above.

When medical and/or family conditions under FMLA are foreseeable, employees are required to notify the Human Resources ~~Administrator~~ Director within thirty (30) days, or as soon as it is known, prior to the commencement of the absence, of the need for the leave. For absences eligible for FMLA leave that are not foreseeable, employees should provide as much notice as is practicable under the circumstances. A delay in submitting this advance notice/request could result in a delay of the start of your FMLA leave. You are required to make an effort to schedule a leave so as not to disrupt Village business operations. During the leave, you may be required to report periodically on your status and your intention to return to work if requested by management.

INTERMITTENT LEAVE

If certified as medically necessary for the serious health condition of either you or your spouse, child or parent, leave may be taken on an intermittent or reduced leave schedule. If leave is required on this basis, however, you may be required to transfer temporarily to an alternative position which better accommodates recurring periods of absence or to be on a part time schedule, provided that the position offers equivalent pay and benefits.

BENEFIT STATUS WHILE ON FLMA LEAVE

Coverage of employees under the Village's group health insurance and life insurance plans continues under the same conditions that existed when actively employed. Employees are obligated to continue to make the same co-payments of premiums as made while actively employed, including the payment of any increases in premiums that occur during an employee's FMLA leave.

Details about the employee's right to continue insurance, the responsibility for premiums, the amount due, and the frequency of insurance premium payments are set forth in the FMLA paperwork that will be provided to an employee upon application for a leave. Payments that are in excess of thirty (30) days late can result in termination of coverage. However, coverage will be restored immediately upon the employee's return from FMLA leave. In some circumstances, an employee will be required to repay the Village for the cost of premiums incurred if the employee fails to timely return from an FMLA leave of absence at expiration of the approved leave period.

Village employees will continue to earn leave and the Village will continue to make payroll deductions from paychecks during periods of paid FMLA leave. If the FMLA is unpaid, service and leave earnings cease, as do non-health/life insurance contributions and deductions. Employees on unpaid FMLA leave are not treated as having a break in service for purposes of vesting or eligibility to participate in benefit programs. All leave accrual rates and balances in effect at the time of the commencement of FMLA leave shall resume upon the completion of the leave.

RETURN FROM LEAVE

An employee requesting FMLA leave and the Village shall agree upon a probable return date at the time the FMLA leave is granted. An employee may advance the agreed upon return date by serving written notice upon the Village Manager not less than thirty (30) days prior to the desired alternative return date, so long as the designated return date is within the FMLA leave period available to the employee. The Village Manager may waive the thirty (30) day notice if it is in the Village's best interest to allow the employee to return sooner.

An employee returning from FMLA leave shall be placed in the same (but not better) position he/she held before the leave began, if the employment position is vacant. If the original position is not vacant, the employee will be restored to an equivalent position with equivalent pay, benefits, and other terms and conditions of employment. Of course, you will have no greater rights to reinstatement or to other benefits and conditions of employment than if you had been actively employed at work during the FMLA leave period.

RETURN TO WORK CONDITIONS

Before you will be permitted to return to work after having been on leave for your own serious health condition, you must provide a fitness for duty release from your health care provider confirming that you are able to return to work and perform the essential functions of your job (either with or without a reasonable accommodation, if required by law). Your maximum time on FMLA leave of absence cannot exceed a total of 12 workweeks in a rolling 12 month period or twenty-six (26) workweeks during a single twelve (12) month period if you took a leave under the Servicemember Family Leave provision. Any time off that qualifies under our FMLA policy and any other Village leave policy will run concurrently.

If you fail to return to work upon expiration of your FMLA leave, this will be considered grounds for termination (due to job abandonment). The only exception is for a disabled employee or handicapped employee who is entitled to a reasonable accommodation such as a leave extension based on an agreement between the employee and management. If some other form of accommodation is needed in order for the employee to return to work earlier and/or upon expiration of the FMLA leave, the employee is encouraged to discuss the options with management.

Please understand that an FMLA leave will not be granted for the purpose of seeking or taking employment elsewhere or operating a private business. Unauthorized work while on an FMLA leave will result in disciplinary action, up to and including discharge if appropriate under normal Village work rules and/or personnel policies.